

MINUTES OF THE SOLID WASTE BOARD MEETING
Indiana Government Center South
402 West Washington Street
Conference Center Room A
Indianapolis, Indiana
November 15, 2005

Attendees

The meeting was called to order by Mr. Rick Dyar, Vice Chairperson, at 1:32 p.m. Those present for all or part of the meeting were:

- Mr. Michael Carnahan
- Mr. Mark Davis
- Mr. Chuck Himes
- Dr. Stephen Wintermeyer
- Mr. Howard Cundiff (Proxy, State Department of Health)
- Mr. Tom Hohman (Proxy, Department of Natural Resources)
- Mr. Chad Frahm, (Proxy, Lieutenant Governor's Office)
- Ms. Pamela Fisher (Proxy, Indiana Economic Development Corporation)
- Ms. Deborah Albright, Board Counsel

A quorum was present.

In addition, the following IDEM staff members were present for all or part of the meeting:

- Mr. Bruce Palin, Assistant Commissioner, Office of Land Quality
- Mr. Mike Dalton, Chief, Rules, Planning, and Outreach Section
- Ms. Lynn West, Rules, Planning, and Outreach Section
- Mr. Steve Mojonier, Rules, Planning, and Outreach Section
- Ms. Marjorie Samuel, Rules, Planning, and Outreach Section
- Ms. Paula Smith, Office of Pollution Prevention and Technical Assistance

Approval of Minutes

Vice Chairperson Dyar asked for additions or corrections to the minutes of the Solid Waste Management Board meeting of October 18, 2005. There being none, Mr. Chuck Himes moved that the minutes be approved as presented. Mr. Chad Frahm seconded. The motion passed unanimously.

Assistant Commissioner's Report

Vice Chairperson Dyar then asked Mr. Bruce Palin to address the Board. Mr. Palin responded to a question raised at the last meeting regarding nonrule policy documents and guidance information on the Web site.

Mr. Palin agreed that there was a problem with clarity, in that the information requested was required through the Underground Storage Tank rules. Mr. Palin had staff make revisions and he then distributed said changes to the Board and reviewed them briefly. Mr. Palin appreciated the issue being brought to his attention so that adjustments could be made.

Vice Chairperson Dyar then asked Ms. Lynn West to address the Board. First, Ms. West distributed the 2006 Solid Waste Management Board meeting schedule. She also encouraged the Board to view pictures on display from a staff visit to an E-waste recycling facility. She also distributed the latest rules project list.

Ms. West specifically commented on the following rules:

- a. #05-322 - CAFO Compliance Dates - This is being heard by the Water Pollution Control Board. It came about because the US EPA is amending the federal CAFO NPDES permitting rules and this rulemaking action will keep state rules consistent with the federal changes by extending several compliance dates.
- b. #05-167 - Financial Responsibility Change Rule - The workgroup met on November 9th and worked on a formula for post closure financial assurance and also a determination of fixed costs
- c. #05-181 - E-Waste Rule - There have been four workgroup meetings with more planned. Workgroup meetings are scheduled for November 22, 2005, and December 6, 2005, 1:30 p.m., Indiana Government Center North, 13th Floor Conference Room 1319.

Finally, Ms. West said that EPA approved the RD&D rules and published a "Determination of Adequacy" on November 10, 2005. Please see pages 6 through 9 of the official transcript of this meeting for a complete account of Ms. West's presentation.

Vice Chairperson Dyar then announced the following rulemaking action:

- Preliminary Adoption of Amendments to 329 IAC 3.1 and 329 IAC 13, the 2005 Hazardous Waste Annual Update Rule. The hearing was noticed in the Indiana Register on October 1, 2005, and can be found at 29 IR 234. The 2005 Hazardous Waste Annual Update Rule, as a draft rule, was published in the October 1, 2005, Indiana Register at 29 IR 223 and is included in the Board packet for this meeting.

Vice Chairperson Dyar said that the above rule is available for public inspection in the Indiana Department of Environmental Management File Room, located on the 12th floor

of the Indiana Government Center North. Instructions were given to the public regarding offering oral statements and comments to the Board; the court reporter was affirmed.

Preliminary Adoption 2005 Hazardous Waste Annual Update

Vice Chairperson Dyar announced that amendments to rules of the Board at 329 IAC 3.1 and 329 IAC 13, 2005 Hazardous Waste Update Rule, would now be considered for preliminary adoption. He introduced the draft rule into the record as Exhibit A. He then asked Mr. Steve Mojonniier to address the Board.

Mr. Mojonniier said that state hazardous waste rules must be kept consistent with federal regulations in order for Indiana, as an authorized state, to manage the hazardous waste management program. The 2005 Hazardous Waste update rule makes six changes to state rules to maintain the required consistency with the federal hazardous waste regulations through August 5, 2005. These changes, included in 40 CFR Parts 260 through 279, were published by the U.S. EPA in the Federal Register between April 22, 2004, and August 5, 2005. Mr. Mojonniier reviewed the various changes for the board. (Please see page 14 of the official transcript for this review.) For a verbatim account of Mr. Mojonniier's presentation, please see pages 12 through 15 of the official transcript of this meeting.

Vice Chairperson Dyar asked if the Board had any questions. There were none, so he asked for public comment. There was no public comment, so Vice Chairperson Dyar concluded the hearing. Vice Chairperson asked if there was any board discussion. There being none, he then asked for a motion to preliminarily adopt the rule as presented. Mr. Frahm so moved and Mr. Howard Cundiff seconded. The motion passed unanimously.

Vice Chairperson Dyar then introduced Ms. Paula Smith, Chief, Compliance and Technical Assistance Program Branch (CTAP), Office of Pollution Prevention and Technical Assistance, to give a briefing of a nonrule policy document that will be formally presented in 2006. Board members were referred to a paper document from a Powerpoint presentation read while Ms. Smith spoke. Ms. Smith first reviewed the history and functions of the Office of Pollution Prevention and Technical Assistance and its multimedia approach. Ms. Smith then specifically described the functions of the CTAP and the compliance assistance confidentiality program. She explained what situations would create immediate waivers from confidentiality. "...what comes into our program, unless there is some distinct clear and immediate danger, stays there." She reviewed CTAP's assistance to businesses and other entities through site visits, recognition programs, workshops, outreach, etc. Ms. Smith said that the function of the nonrule policy document (NPD) is to offer any regulated entity in the CTAP confidentiality program the ability to use a "written Quality Assurance Guarantee" provided by CTAP that defines assistance that has been provided. Ms. Smith described the following scenario: An inspector cites the entity for a particular violation. The regulated entity says that they are receiving compliance assistance from CTAP on the situation as verified by the Quality Assurance Guarantee. The regulated entity submits a

"written waiver of confidentiality" to the inspector who, in turn, submits it to CTAP. After receipt of the waiver of confidentiality, discussions are held with the relevant offices in IDEM to determine appropriate action. Ms. Smith said that the official comment period on the NPD ends November 29, 2005. While comments at the board meetings are welcome, written comments during the comment period are much preferable so they may be considered at the Air, Water and Solid Waste board meetings. The formal presentation of this NPD will be in December 2005 for the Air Board and Water Pollution Control Board. The Solid Waste Management Board formal presentation will be at the meeting in January 2006.

Mr. Himes asked about the use of the term, "multimedia". Ms. Smith said the multimedia clarified that multimedia refers to air, land and water.

Please see pages 17 through 31 of the official transcript of this meeting for a complete account of Ms. Smith's presentation.

Vice Chairperson Dyar asked Mr. Palin to brief the Board regarding LSA #05-182, Inspection and Cleaning of Properties Contaminated by Chemicals Used in the Illegal Manufacture of a Controlled Substance (Meth Lab Rule). Mr. Palin first referred the Board to a paper handout of a Powerpoint presentation. Mr. Palin said that a bill was passed at the last legislative session regarding curbing meth labs in Indiana. Part of the overall meth lab problem is the cleanup and remediation; how to manage contamination that remains after a meth lab bust occurs. This includes remediation of chemicals and materials left in the soil and groundwater and also decontamination of a home where a meth lab was located. The language was also expanded to include vehicles that were used as mobile meth labs. Work on a rule has begun and a first notice of the Meth Lab Rule was published July 1, 2005, in the Indiana Register. A workgroup was established with representatives from the Department of Health, State Police, Criminal Justice Institute, Environmental Health Association, a couple of county health departments and a solid waste district participating. A second notice is anticipated to be published in the January 1, 2006 Indiana Register. Mr. Palin highlighted the main points of the rule as follows:

- a. Decontamination has to be done by certified individuals, and if demolition occurs, the materials may be disposed of in a sanitary landfill with no decontamination required. A vehicle may be disposed in a scrap yard without decontamination. Decontamination by a certified individual must occur before the property is reoccupied or transferred to another individual.
- b. Requirements are established for certification of individuals who do cleanup of contaminated sites.
- c. The property being decontaminated must be assessed by a certified individual that the cleanup levels have been met according to levels that are being established by the rule. As new information regarding the environmental and health impact of the different types of drugs becomes available, these clean up levels may be adjusted.

Mr. Palin also said that there has been ongoing discussion in the workgroup meetings about septic tank contamination. Also under discussion is putting a quarantine on a home after it has been used for a meth lab. At this point, the procedure discussed is to ban access from the property in question, first as a crime scene, and then through a quarantine from the Health Department. Then after cleanup is performed and a certified individual states that cleanup levels have been met, the property may be inhabited or ownership transferred. As part of this process, there is discussion about putting restrictions on deeds or notifications about the property having been used as a meth lab. For a complete account of Mr. Palin's presentation, please see pages 31 through 43 of the official transcript of this meeting.

Mr. Michael Carnahan had questions about contamination of soils in rural areas, and how to handle contamination of a single unit within a multifamily dwelling. He also asked that the workgroup include a local sheriff who has had experience with meth labs in rural areas or in government housing for lower income residents. He mentioned that the quarantine of a "single dirt road, for 15 days and it's time for harvest..." would penalize farmers using that road, but not punish the lawbreaker. Mr. Palin acknowledged that these are points well taken and would be something the workgroup could discuss.

Vice Chairperson Dyar asked if there was anyone who wished to address the Board on topics of interest and potential rulemakings in Title 329. There was no public comment.

Adjournment

Vice Chairperson Dyar adjourned the meeting at 2:21 p.m.

The next meeting will be January 17, 2006, at 1:30 p.m., at the Indiana Government Center South, Conference Center Room A, 402 West Washington Street, Indianapolis, Indiana.

TECHNICAL SECRETARY